



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance Adding Chapter 9.30 to the Lodi Municipal Code
Relating to Shopping Cart Removal

MEETING DATE: July 20, 1994

PREPARED BY: City Attorney

RECOMMENDED ACTION: Council consideration and possible introduction of
Ordinance No. 1596 adding Chapter 9.30 to the Lodi
Municipal Code

BACKGROUND INFORMATION: At the request of Councilmember Mann, a draft
ordinance has been prepared to provide for the
abatement and removal of abandoned shopping carts.

A copy of the draft ordinance was sent to the Chamber of Commerce and the Lodi
Downtown Business Association (LDBA) approximately forty days prior to this
communication and no response has been received. A copy of the draft ordinance
was also sent to the following retail businesses, these being the major users
of shopping carts in the Lodi area:

Lucky Food Center (both locations)	Smart Foods
Raley's	Walgreen Drugs
Safeway	Walmart
Kmart	Orchard Super Hardware
Lakewood Drugs	Sell-Kite Market
Long's Drugs (both locations)	Salisbury's Market
Payless Drugs	

Council consideration and direction on this matter is requested.

FUNDING: Not applicable

Respectfully submitted,



Bob McNatt
City Attorney

BM:pn

CCSHOP.CRT/TXTA.01V

APPROVED _____

THOMAS A PETERSON
City Manager



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ORDINANCE NO. 1596

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
ADDING CHAPTER 9.30 TO THE LODI MUNICIPAL CODE RELATING
TO SHOPPING CART REMOVAL

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SECTION 1.

DECLARATION OF PUBLIC NUISANCE:

The City Council makes the following findings and declarations:

The accumulation and storage of wrecked, dismantled and abandoned shopping carts, or parts thereof, on public and private property is found to create a condition tending to reduce property values, to promote blight and deterioration, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to be aesthetically detrimental to the community and to be injurious to the health, safety and general welfare. Therefore, the presence of wrecked, dismantled or abandoned shopping carts, or parts thereof, on public or private property, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter.

DEFINITIONS:

The following definitions shall apply to this chapter:

1. "Public property": Includes, but is not limited to, all that area dedicated to public use for public street purposes, roadways, parkways, alleys, sidewalks, flood control channels and any public right of way.
2. "Parkway": That area between the sidewalks and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. Parkway shall also include any area within the roadway which is not open to vehicular travel.
3. "Abandoned Cart": When a shopping cart is left standing unattended on any public or private property longer than reasonably required to load or unload such cart, the shopping cart shall be deemed to be abandoned and therefore a public nuisance pursuant to this chapter. The provisions of this chapter shall not apply to shopping carts left standing on the property of the commercial establishments which owns said shopping carts or the common areas of a shopping center adjacent thereto.

OWNER DEEMED RESPONSIBLE AND LIABLE FOR ABATEMENT OF ABANDONED SHOPPING CART:

In the event that a shopping cart is abandoned the owner thereof shall be responsible and liable for the removal and disposition of the abandoned cart as provided in this chapter.

REMOVAL, STORAGE AND SALE OF ABANDONED CARTS:

- A. The City Manager or his authorized representative or a private person designated by resolution of the City Council may remove shopping carts under the terms and provisions of this section.
- B. At least 24 hours prior to removal of any shopping cart from any public or private property, the City Manager, his authorized representative or the private person designated by the City Council pursuant to subsection A shall give telephone notice between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday (excluding legal holidays) to the owner thereof if the identity of such owner can be ascertained by reference to the sign permanently affixed to said cart in accordance with the Business and Professions Code. Failure to give such notice shall not invalidate the removal and disposition of the shopping cart as hereinafter provided.
- C. Any abandoned shopping cart may be removed to a storage facility by any authorized City employee or any employee of the private person designated by the City Council pursuant to subsection A. Upon its being delivered to the storage facility, the City Manager or its authorized representative or the private person designated by the City Council pursuant to subsection A shall promptly give notice in writing the address affixed to such shopping cart. If no address is affixed thereto, no such notice shall be required. The cart shall be held for a period of not less than thirty (30) days.
- D. In the event that the shopping cart is removed as provided in subsection C, the owner shall pay a charge in an amount as established by resolution of the City Council for the following:
 - 1. Removal of the shopping cart from the public or private property;
 - 2. Storage commencing two days after the written notice has been given to the owner named on the shopping cart, or in the absence of such identification, two days from the date that the shopping cart was removed from the public or private property.
- E. After thirty (30) days have elapsed from the date that the shopping cart has been stored, the shopping cart shall be deemed to be permanently abandoned by the owner thereof, and the shopping cart may be disposed of as provided in subsection F.
- F. At such time as shall be convenient the permanently abandoned shopping carts shall be advertised for sale. Notice of said sale shall be posted in three conspicuous places throughout the City. Ten (10) days after the posting of said notice and at the time and place fixed in that notice for said sale (or at such time and place as the sale shall be reasonably continued) such shopping cart may be sold along with other shopping carts, and delivered to the highest bidder free and clear of the claims of the owner thereof.

G. The proceeds of any sale made pursuant to subsection F shall be disbursed as follows: First, pay the costs of removal, storage and sale of the shopping cart as specified in subsection D; and, second, the balance remaining shall be paid to the owner, if any can be ascertained from any name, address or telephone number affixed to the shopping cart or, if not, the balance shall be deposited in the City's general fund.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this day of

JACK A. SIEGLOCK
Mayor

Attest:

JENNIFER M. PERRIN
City Clerk

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State of California
County of San Joaquin, ss.

I, Jennifer M. Perrin, City Clerk of the City of Lodi, do hereby certify that Ordinance No.1596 was introduced at a regular meeting of the City Council of the City of Lodi held July 20, 1994 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 1994 by the following vote:

Ayes:	Council Members -
Noes:	Council Members -
Absent:	Council Members -
Abstain:	Council Members -

I further certify that Ordinance No. 1596 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

JENNIFER M. PERRIN
City Clerk

Approved as to Form

BOBBY W. McNATT
City Attorney

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